

May 14, 2019

Mr. Sidney Rubin  
2700 Greenspring Valley Road  
Owings Mills, MD 21117

Re: Keidel Property  
Forest Conservation Variance  
Tracking # 02-19-2965

Dear Mr. Rubin:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by the Department of Environmental Protection and Sustainability (EPS) on March 21, 2019. This request seeks a variance to remove a specimen tree that represents a potential hazard to a neighboring property. The specimen tree proposed for removal is a 42-inch DBH tulip poplar that is in poor condition and located in a Forest Conservation Easement. Due to the condition of the tree and its close proximity to the neighbor's house and driveway, EPS gave permission to remove the tree.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of this property. The specimen tree identified for removal is located in a Forest Conservation Easement which was established in 1995 as part of the Keidel Property subdivision. Two house have been built on the property since the easement was created. Removal of the specimen tree will not deprive the petitioner of the beneficial use of his property because the property has already been developed and the tree is not interfering with the petitioner's use of his property. The request to remove the specimen tree is a result of the petitioner's desire to eliminate a potential tree hazard to a neighboring property. Consequently, we find that this criterion has been not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The need to remove the specimen tree is a result of its poor condition and close proximity to a neighbor's house and driveway. These circumstances are unique to this property

and not the general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The specimen tree identified for removal is not associated with a new development activity. Also, the specimen tree is located on the edge of the forest, so impact to the existing forest will be minimal. Therefore, we find that granting the variance will not alter the essential character of the neighborhood; thus, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The specimen tree identified for removal is not located in close proximity to any streams or wetlands. Only one specimen tree is proposed for removal and the adjacent forest will remain intact. Therefore, we find that granting the variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The variance request arises from the location of the specimen tree on the property and the hazard it poses. The tree is in poor condition and is located next to a neighbor's driveway and house. The request to remove the specimen tree is a result of the petitioner's desire to eliminate a potential tree hazard to a neighboring property. The petitioner is not responsible for the poor health of the tree. Therefore, the petitioner has taken no actions necessitating this variance prior to its request, and this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. The petitioner is seeking to remove only one specimen tree from the forest. The remaining trees in the forest will remain intact and protected in a Forest Conservation Easement. Although it is not required due to the tree's condition, the petitioner indicated he would replace the tree. Given that the property owner's removal request is for one tree and the remaining forest remain intact, we find that this variance request is consistent with the spirit and intent of Article 33 of the Baltimore County Code. Therefore, this criterion has been met.

Based on our review, this Department finds that all required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. No mitigation is required for the removal of the specimen tree because the tree is in poor condition.
2. Any future plans prepared for the Keidel Property must include the following note:

Mr. Sidney Rubin  
Keidel Property  
Forest Conservation Variance  
May 14, 2019  
Page 3

“A special variance to the Forest Conservation Law was granted by Baltimore County Department of Environmental Protection & Sustainability on May 14, 2019 to allow the removal of one specimen tree. No mitigation is required for the removal of this specimen tree since it is in poor condition.”

3. This variance approval does not exempt future development activities or future removal of specimen trees at this site from compliance with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If there are any questions regarding this correspondence, please contact Mr. Gris Batchelder at (410) 887-3980.

Sincerely,

David V. Lykens  
Acting Director

DVL/cgb

cc.: Marian Honeczy, Maryland Department of Natural Resources

Mr. Sidney Rubin  
Keidel Property  
Forest Conservation Variance  
May 14, 2019  
Page 4

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

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Responsible Party's Signature

Date

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Responsible Party's Printed Name